

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

---

JOHN YANG LEE,

Plaintiff,

v.

**ORDER**  
10-CV-103S

ALAN R. SALTZMAN and ELLEN P. RICH,

Defendants.

---

1. On February 8, 2010, Plaintiff filed his original Complaint in this action. (Docket No. 1.) In response, Defendants moved to dismiss the Complaint under Federal Rule of Civil Procedure 12(b)(6) on March 8, 2010. (Docket No. 4.)

2. Presently before this Court is Plaintiff's Motion to Amend his Complaint to add an additional defendant in this action, filed on December 6, 2010. (Docket No. 11.)

3. A plaintiff may amend his complaint as a matter of course within 21 days after service of a Motion to Dismiss pursuant to Federal Rule of Civil Procedure 12(b). See FED. R. CIV. P. 15(a)(1). After that time, a plaintiff may only amend his complaint with written consent of the opposing party or with leave of the court. See FED. R. CIV. P. 15(a)(2). Here, Defendants filed a response to Plaintiff's Motion to Amend his Complaint, indicating that they do not oppose the instant motion. (Docket No. 13.) In light of this representation and that leave to amend shall be freely given "when justice so requires," see FED. R. CIV. P. 15(a)(2), Plaintiff's Motion to Amend his Complaint is granted.

IT HEREBY IS ORDERED, that Plaintiff's Motion to Amend (Docket No. 11) is GRANTED.

FURTHER, that Plaintiff shall file his Amended Complaint.

FURTHER, that Defendants shall file their answer or otherwise respond to the Amended Complaint within 14 days after service of the Amended Complaint.

FURTHER, that Defendants' Motion to Dismiss (Docket No. 4) is DENIED as moot.

SO ORDERED.

Dated: January 20, 2011  
Buffalo, New York

s/William M. Skretny  
WILLIAM M. SKRETNY  
Chief Judge  
United States District Court